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TIR 11-12: Filing Rules for Short-Year Filers

I. Introduction

This TIR explains the filing rules for filers who are filing returns for less than a full tax year. In part, this TIR restates and clarifies the extended filing due date rule announced under TIR 09-18 for filers who must file electronically. In reference to tax returns due after January 1, 2010, TIR 09-18 stated that a “taxpayer required to file before the electronic filing method is available will receive an automatic filing extension for the period between the required filing date and 30 days after the date the electronic filing method is available.” As authorized under G.L. c. 62C, § 19, this TIR clarifies that the postponed filing due date rule announced in TIR 09-18 for corporate combined groups filing a combined report, and for pass-through entities subject to withholding requirements, also applies to returns due in subsequent years. For these two types of filers, the filing due date is postponed until the filing method becomes available. Payment of any tax liability, however, must be made by the original due date.

II. General Rules for Short-Year Filers

The general rule is that a short-year filer should file using the tax form for the calendar year within which the short year falls; if the short year spans more than one calendar year, the filer should file using the tax form for the calendar year in which the short year began.<sup>[1]</sup> The proper return for a short-year filer may not be available at the time the short-year filer must file its return. This can occur, for example, if the tax year for a short-year filer begins and ends in the first few months of a calendar year. Generally, forms for a given year are not available until the last few months of the calendar year. With this TIR, the Commissioner announces filing rules applicable to short-year filers if the return is not available for filing at least 30 days before the date a short-year filer must file its return.

III. Rules for Filers Not Subject to an Electronic Filing Mandate

If the correct form is not available at least 30 days before the date the filer’s return is due, and the filer is permitted to use a paper return (i.e., is not subject to an electronic filing mandate), the filer may use the prior year’s paper return form to file the return, adjusting the form as necessary to account for changes in the law. The taxpayer owes the tax as determined under the laws applicable to the particular period for which it was filed, even if that differs from the prior year form or form instructions. If there is a law change applicable to the short tax year that passes after the short year return is filed, or if the short year return does not reflect the applicable law, the taxpayer should file an amended return incorporating those changes. Short-year filers required to file electronically for whom the correct form is not available at least 30 days before the date the filer’s return is due should follow the filing rules set forth below.

IV. Rules for Filers Subject to an Electronic Filing Mandate

A. Filers of the 355U and Pass-Through Entities Subject to Withholding Rules

Under TIR 09-18, the Commissioner expanded electronic filing requirements to include (1) returns filed on behalf of taxpayer corporations reporting their income as part of a combined group filing a combined report; (2) composite returns filed by pass-through entities; and (3) annual returns filed by pass-through entities included in the Department’s withholding compliance program. (Composite returns must be filed on a calendar year basis and are not affected by short-year filing rules; this TIR does not apply to composite filers.) The electronic return form required for a taxable year for these mandated electronic filers may not be available for short-year filers by 30 days before the entity is required to file its tax return for that year. The use of prior year paper forms is not possible for taxpayers mandated to file electronically under TIR 09-18 because no approved paper form exists for corporate combined returns or pass-through entities subject to withholding rules. With regard to these taxpayers, if the electronic filing method is not available at least 30 days before the statutory filing due date, the filing due date is postponed until the date the return would be due if the taxpayer were filing for the calendar year in which the short year falls. (The filer can, of course, file at any time prior to the extended due date, so long as the electronic filing method is available.) The taxpayer will, however, be required to electronically pay its tax liability for the year by the statutory due date; this extended due date is not an extension of time to pay.

To illustrate these rules, suppose a partnership is mandated to file electronically because it has nonresident partners and must

participate in the pass-through entity withholding program. The partnership has a fiscal year of February 1 to January 31 and terminates its existence on March 31, 2011. The partnership must file a short-year return for the short year from February 1, 2011 through March 31, 2011 using the 2011 form. The partnership would normally be required to file by July 15, 2011. However, assume that the 2011 Form 3 is not available as of June 15, 2011 and does not become available until December 1, 2011. Since the form is not available at least 30 days before the original July 15, 2011 filing deadline, the partnership has until April 15, 2012 to file its 2011 return.

#### B. Filers Mandated to File Electronically for Whom Paper Forms Exist

Filers mandated to file electronically under TIRs 04-30 and 05-22 include corporations and S corporations with over \$100,000 in gross receipts, and partnerships over the partnership electronic filing threshold explained in TIR 04-30. These filers may, at their option, file their returns for the short year on the prior year's paper return, or they may wait until the electronic return is available. If these filers choose to file electronically, and the electronic filing method is not available at least 30 days before the statutory filing due date, the filing due date is postponed until the date the return would be due if the taxpayer were filing for the calendar year in which the short year falls. (The filer can, of course, file at any time prior to the extended due date, if the electronic filing method is available.) The taxpayer will, however, be required to electronically pay its tax liability for the year by the statutory due date; this extended due date is not an extension of time to pay.

If the filer chooses to file on the prior year paper return, the penalty for this paper filing will be waived for these short-year filers. As explained in section III above, the paper form must be adjusted to reflect the law applicable to the period for which the return is filed. If the paper form does not, for any reason, reflect the law applicable to the filing period, the filer must file an amended return that correctly accounts for any differences.

Personal income taxpayers whose returns are being filed by a tax practitioner subject to an electronic filing mandate may direct the practitioner to file the short year return on paper, or may wait to have the practitioner file electronically under the rule announced in this section.

#### C. Extension Requests

If a filer subject to any electronic filing mandate requires an extension beyond the extended due date provided under this TIR, the extension request must also be filed electronically. Short-year mandated electronic filers for whom the correct electronic form is not yet available should not file a separate extension request before the form is available. These filers may request an extension of time to file, but only if the taxpayer's original due date is less than six months before the extended due date established under this TIR. Otherwise, the taxpayer must file its return by the extended due date established in this TIR. Any extension request should be filed no later than 30 days before the extended due date.

The rules regarding when electronic filing and payment is required for amended returns have not changed. These rules vary according to the tax type and whether the amended return results in an increase or decrease in tax liability. (See TIR 09-18 for more information regarding amended returns.)

/s/ Amy Pitter

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Commissioner of Revenue

AP:MTF:lab

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[\[1\]](#) Fiscal year filers, too, should file using the tax form for the calendar year in which the fiscal year began. For example, a fiscal year filer should use the 2010 form for a fiscal year beginning in 2010 and ending in 2011.